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IN THE SUPREME COURT OF THE STATE OF IDAHO

STATE OF IDAHO,)	
)	NOS. 44998 & 44999
Plaintiff-Respondent,)	
)	BONNEVILLE COUNTY NOS. CR-2016-556 &
v.)	CR-2016-2911
)	
JACOB LEWIS STANTON,)	APPELLANT'S BRIEF
)	
Defendant-Appellant.)	
_____)	

STATEMENT OF THE CASE

Nature of the Case

Jacob Lewis Stanton appeals, in both cases, from the district court's Order Denying Rule 35 Motion. Mr. Stanton was sentenced to unified sentences of four years, with two years fixed, for each of his possession of a controlled substance (methamphetamine) convictions. Mindful that he did not provide new or additional information in support of his Rule 35 motion, he asserts that the district court abused its discretion by denying his Rule 35 motions for a reduction of sentence.

Statement of the Facts & Course of Proceedings

In Supreme Court Docket Number 44998, a Prosecuting Attorney's Information was filed charging Mr. Stanton with possession of a controlled substance (methamphetamine), possession of marijuana, and possession with the intent to use drug paraphernalia. (R., pp.32-33.) The charges were the result of a search conducted during Mr. Stanton's arrest on unrelated charges. (PSI, p.4.)¹ Pursuant to a plea agreement, Mr. Stanton entered a guilty plea to the possession of a controlled substance (methamphetamine) charge and the remaining charges were dismissed. (R., pp.47-52, 80.)

In Supreme Court Docket Number 44999, a Prosecuting Attorney's Information was filed charging Mr. Stanton with possession of a controlled substance (methamphetamine), possession with the intent to use drug paraphernalia, and resisting or obstructing officers. (R., pp.138-139.) The charges were the result of a report to police that a man was sleeping, slumped over, at a laundromat with a loaded syringe on the floor in front of him. (PSI, p.4.) Pursuant to a plea agreement, Mr. Stanton entered a guilty plea to the possession of a controlled substance (methamphetamine) charge and the remaining charges were dismissed. (R., pp.147-153, 168.)

The cases proceeded to sentencing and Mr. Stanton was sentenced to a unified sentence of four years, with two years fixed, with a period of retained jurisdiction, in each case. (R., pp.82-88, 165-166, 170-172.) Ultimately, the district court relinquished jurisdiction. (R., pp.90, 177.)

Mr. Stanton filed timely Rule 35 motions in both cases. (R., pp.96, 181.) The State filed an Opposition to Rule 35 Motion, in each case, objecting on the grounds that Mr. Stanton had not

¹ For ease of reference, the electronic file containing the Presentence Investigation Report and attachments will be cited as "PSI" and referenced pages will correspond with the electronic page numbers contained in this file.

provided any new information in support of his motions. (R., pp.98-99, 183-184.) Following a hearing on the motions, the district court entered orders denying the Rule 35 motions. (R., pp.101, 186.) Mr. Stanton filed a Notice of Appeal timely from the district court's Order Denying Rule 35 Motion in each case. (R., pp.103-105, 188-190.)

ISSUE

Did the district court abuse its discretion when it denied Mr. Stanton's Idaho Criminal Rule 35 motions for a reduction of sentence?

ARGUMENT

The District Court Abused Its Discretion When It Denied Mr. Stanton's Idaho Criminal Rule 35 Motions For A Reduction Of Sentence

A motion to alter an otherwise lawful sentence under Rule 35 is addressed to the sound discretion of the sentencing court, and essentially is a plea for leniency which may be granted if the sentence originally imposed was unduly severe. *State v. Trent*, 125 Idaho 251, 253 (Ct. App. 1994) (citing *State v. Forde*, 113 Idaho 21 (Ct. App. 1987) and *State v. Lopez*, 106 Idaho 447 (Ct. App. 1984)). "The criteria for examining rulings denying the requested leniency are the same as those applied in determining whether the original sentence was reasonable." *Id.* (citing *Lopez*, 106 Idaho at 450).

The Idaho Supreme Court has held that, "[w]here a sentence is within statutory limits, an appellant has the burden of showing a clear abuse of discretion on the part of the court imposing the sentence.'" *State v. Jackson*, 130 Idaho 293, 294 (1997) (quoting *State v. Cotton*, 100 Idaho 573, 577 (1979)). In order to show an abuse of discretion, Mr. Stanton must show that in light of the governing criteria, the sentence was excessive considering any view of the facts. *Id.* (citing *State v. Broadhead*, 120 Idaho 141, 145 (1991), *overruled on other grounds by State v. Brown*,

121 Idaho 385 (1992)). “When presenting a Rule 35 motion, the defendant must show that the sentence is excessive in light of new or additional information subsequently provided to the district court in support of the Rule 35 motion.” *State v. Huffman*, 144 Idaho 201, 203 (2007).

Appellate courts use a three-part test for determining whether a district court abused its discretion: (1) whether the court correctly perceived that the issue was one of discretion; (2) whether the court acted within the outer boundaries of its discretion and consistently with the legal standards applicable to the specific choices available to it; and (3) whether it reached its decision by an exercise of reason. *State v. Stevens*, 146 Idaho 139, 143 (2008) (citing *Sun Valley Shopping Ctr., Inc. v. Idaho Power Co.*, 119 Idaho 87, 94 (1991)).

Mindful that he did not provide any new or additional information as required by *Huffman*, Mr. Stanton asserts that the district court failed to give proper weight and consideration to the mitigating factors that exist in his case and, as a result, did not reach its decision by an exercise of reason.

Idaho courts have previously recognized that substance abuse and a desire for treatment should be considered as a mitigating factor by the district court when that court imposes sentence. *State v. Nice*, 103 Idaho 89 (1982); *see also State v. Alberts*, 121 Idaho 204, 209 (Ct. App. 1991). Mr. Stanton has a long history of substance abuse and has a desire to participate in substance abuse treatment. (PSI, pp.15-16.) It was recommended that he participate in Level III Residential Treatment. (PSI, p.16.) As noted at the sentencing hearing, Mr. Stanton is “ready to change” and wants to stop using. (Tr., p.14, Ls.6-22; PSI, p.16.)

Additionally, at the Rule 35 hearing, counsel noted that Mr. Stanton is “doing well . . . benefitting from the opportunities that he has available to him with the Department of Corrections . . . learning and growing and is in an environment where he feels like he can,

perhaps, work on social strategies and those types of things for succeeding in the community.”
(Tr., p.21, Ls.11-17.)

Mr. Stanton asserts that the district court abused its discretion in denying his Rule 35 motions. He asserts that had the district court given proper weight and consideration to the mitigating information present in his case, it would have granted his Rule 35 motions and reduced his sentences.

CONCLUSION

Mr. Stanton respectfully requests that this Court reduce his sentences as it deems appropriate. Alternatively, he requests that the orders denying his Rule 35 motions be vacated and the cases remanded to the district court for further proceedings.

DATED this 24th day of August, 2017.

_____/s/_____
ELIZABETH ANN ALLRED
Deputy State Appellate Public Defender

CERTIFICATE OF MAILING

I HEREBY CERTIFY that on this 24th day of August, 2017, I served a true and correct copy of the foregoing APPELLANT'S BRIEF, by causing a copy thereof to be placed in the U.S. Mail, addressed to:

JACOB LEWIS STANTON
INMATE #111283
SICI
PO BOX 8509
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DANE H WATKINS JR
DISTRICT COURT JUDGE
E-MAILED BRIEF

TRENT GRANT
BONNEVILLE COUNTY PUBLIC DEFENDER
E-MAILED BRIEF

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CRIMINAL DIVISION
E-MAILED BRIEF

_____/s/_____
EVAN A. SMITH
Administrative Assistant

EAA/eas